

NEIFELD REF: INVE0013-1

Application/Patent No: 09/315,822

USPTO CONF. NO: 6988

File/Issue Date: 5/21/1999

Inventor: CHRISTENSEN

Title: Virtual Couponing Method and Apparatus for Use with Consumer Kiosk

Examiner/ArtUnit: 3688

ENTITY STATUS: LARGE

Priority claims and PCT Intl data:

37 CFR 1.111 RESPONSE TO OFFICE ACTION DATED 1/8/2010

In response to the office action dated 1/8/2010, the applicant respectfully traverses the rejections on the ground that they are barred by res judicata as contrary to the decision of the Board dated 7/30/2009.

The decision of the Board on appeal dated 7/30/2009 reversed the rejection of claim 4 based upon Barnett and Lemon. Specifically, the Board reversed the rejection under 103(a) of Claim 4 based upon Barnett and reverse the rejection of claim 4 under 102 based upon Lemon.

The office action dated 1/8/2010 however rejections claim 4 under 103(a) based upon Barnett and under 102 based upon Lemon. These are the same statutory basis and evidence for rejections of claim 4 reversed by the Board. Accordingly, the rejections of claim 4 are barred by res judicata. Moreover, all of the other claims now pending depend from claim 4. Accordingly, the rejections of all of these claims are also barred by res judicata.

On a procedural note, the office action is also ultra vires as contrary to procedure required in cases in which all rejections of a claim are reversed as noted in the petition filed concurrently here with, which petition is incorporated by reference herein for expediency.

In view of the foregoing, the undersigned believes that this application should have been allowed, that the office action dated 1/8/2010 should be vacated, and the extension to patent term associated with a successful appeal as specified in 37 CFR 1.701 be applied to this application.

Truly,
/RichardNeifeld#35,299/
Richard Neifeld, Reg. No. 35,299

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Date/time code: May 7, 2010 (4:05pm)

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